IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.14725 of 2005

Date of Decision: 25.9.2006

Baldev Kaur and another .....Petitioners

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Anutej Singh, Advocate for
Mr.SS Grewal, Advocate
for the petitioners.

Mr.BS Chahal, AAG Punjab.

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J.S.KHEHAR,J.(Oral)

Though the instant writ petition, the petitioners have impugned the action of the respondents in depriving them of the payment of 'Dearness Allowance' on account of their sons having been appointed into the service of the State Government, on compassionate grounds, under the ex-gratia scheme of the State government. The second prayer of the petitioners is, that they should not be required to refund the payment of 'Dearness Allowance' already made to them since they had not made any mis-representation to the respondents, on the basis whereof 'Dearness Allowance' was released to them.

The instant issues have already been adjudicated upon by this Court in the case of Mukhtiar Singh and others Versus State of Punjab and

others (CWP NO.891 of 2003, decided on 20.1.2004). In Mukhtiar Singh's case (supra), the first claim made by the petitioners in the instant case had been rejected. As a matter of fact the petitioners have not pressed the first claim and have limited their relief to the issue of recovery being made from them.

In so far as the second issue is concerned, namely, the recovery from the petitioners of the 'Dearness Allowance' paid to them, this Court in Mukhtiar Singh's case (supra) held, that if the payment had been made to the petitioners without any mis-representation at the hands of the concerned petitioners, then the amount paid to them could not be recovered .

Learned counsel for the respondents could not distinguish the claim raised in the instant writ petition from the one adjudicated upon in Mukhtiar Singh's case (supra), in so far as the second issue is concerned.

In view of the above, the instant writ petition is allowed, in the same terms as in Mukhtiar Singh's case (supra). Disposed of accordingly.

(J. S. KHEHAR)
JUDGE

(S. D. ANAND)
JUDGE

September 25, 2006
SRM